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RECENT IMPORTANT DECISIONS

ACKNOWLEDGMENT—WHO MAY TAKE—STOCKHOLDER.—A wife acknowledged a mortgage of the homestead before a notary public who was a stockholder and officer in the corporation mortgagee, *Held*, that the mortgage was invalid and subject to be so treated on direct attack. *Jenkins v. Jonas Schwab Co.* (1903), — Ala. —, 35 So. Rep. 649. See MICHIGAN LAW REVIEW, Vol. 1, p. 215; vol. 2, pp. 138 and 220.

ACTION FOR DEATH OF CHILD—CONTRIBUTORY NEGLIGENCE.—A minor of eleven years drove a team attached to a two-seated spring wagon to town. Seated on the back seat of the wagon were his mother and six-year-old sister, on the front seat a negro boy and the minor himself. The evidence showed that he attempted to cross the railway track in plain view of a rapidly approaching train. In the collision that followed both mother and daughter were killed. In action by the father as administrator of his daughter's estate to recover damages under the statute for her wrongful death. *Held*, That where a father through his agent, the custodian of a child, is guilty of negligence contributing to cause its death, he cannot recover damages for its death in an action for his own benefit. *Richmond F. & P. Ry. Co. v. Martin's Administrator* (1903), — Va. —, 45 S. E. Rep. 894.

The authorities all agree that there can be no recovery where the action is brought in the name of and for the benefit of one whose negligence has contributed to the accident. The policy of the law is not to allow a recovery for the benefit of a wrong doer, and this should be applied as well to actions in the name of another for the benefit of those who may have contributed to the wrong. KINKEAD ON TORTS, 474; BEACH ON CONTRIBUTORY NEGLIGENCE, sec. 131. *Bellefontaine Ry. Co. v. Snyder*, 24 Ohio St. 670. When the action is by the administrator it is generally held that he is only a trustee or a mere nominal party and that the action will be defeated by the contributory negligence of the beneficiaries. BOOTH ON STREET RAILWAYS, sec 391. *Stutzel v. St. Paul City Ry.*, 47 Minn. 543, 50 N. W. Rep. 690. *Chicago Cy. Ry. v. Robinson*, 127 Ill. 9, 18 N. E. Rep. 772, 4 L. R. A. 126, 11 Am. St. Rep. 87. *Wymore v. Mahaska Co.*, 78 Ia. 396, 43 N. W. Rep. 264, 6 L. R. A. 545, 16 Am. St. Rep. 449 is to be distinguished on the ground that the statute gives a right of action to the estate of the minor and one to the next of kin, and the action in that case was by the next of kin.

ADVERSE POSSESSION—COMPUTATION OF TIME—LITIGATION IN LAND OFFICE.—Russell Sage, assignee in trust of the Hastings and Dakota Railway Co., brought an action of ejectment against one Michael Rudnick to recover possession of some land, situated in Swift County, Minn., the title to which had been litigated in the General Land Office of U. S. from 1883 to 1891 between plaintiff and another road, each claiming title through their grants; when in 1891 the commissioner determined plaintiff was the owner. Rudnick claims title by adverse possession, having occupied the land since May, 1877, under claim of ownership. *Held*, That the statute of limitations did not run from 1883 to 1891. *Sage v. Rudnick* (1904), — Minn. —, 98 N. W. Rep. 89.

The Court based its decision upon the case of the *St. Paul Ry. Co. v. Olson*, 87 Minn. 117, where the defendant had been a party to the liti-